IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.171 OF 2006

IN

NOTICE OF MOTION NO.274 OF 2006

IN

L.C. SUIT NO.6526 OF 1999

WITH

CIVIL APPLICATION NO.238 OF 2006

Shri Uday A.Khatavkar ...Appellant

Versus

The Municipal Corpn.of Greater

Bombay & Anr. ...Respondents

.....

Mr.M.M.Chopra for Appellant.

Mr.Malandkar for Respondent No.1.

.....

CORAM: A.M.KHANWILKAR, J.

MARCH 23, 2006.

P.C.

1. Heard Counsel for the parties. Perused the relevant material on record.

2. The order which is impugned in this Appeal from Order is interlocutory order whereby the Trial Court has, in the interest of justice, permitted the Respondent Corporation to file written statement on record and recalled its earlier order of no written statement. The indulgence has been shown on the basis of the facts averred in the affidavit of Mr.Gagare, which is filed to support the claim of the Respondent Corporation. The reason so recorded in my opinion is appropriate.

3. Counsel for the Appellant however, contends that the reason given in the affidavit of Mr.Gagare relates only to one date and makes no reference to the earlier dates when no attempt was made to file written statement. It is stated that the matter was adjourned on nine different dates in the past and no reason is forthcoming for that lapse.

4. Suffice it to observe that the Court below has given one opportunity to the Corporation in the interest of justice. There is no reason to

interfere with the discretionary order so passed by the Trial Court. Hence, this Appeal should fail. The same is dismissed.

5. In my order dated 18th March 2006, I had called upon the Registrar of the City Civil Court to submit report as to the status of the reasons recorded by the Trial Judge in terms of the impugned order dated 12th January 2006. The Registrar of the City Civil Court has submitted report pointing out that the Appellant had merely applied for certified copy of Roznama of 31st January 2006 and not all the reasons recorded by the Trial Judge, which are now impugned. Along with the report, copy of the impugned reasons recorded is also forwarded. For the reasons noted by the Registrar, no further action is required in relation to order dated 18th March 2006.

6. Certified copy of the reasons recorded produced by the Counsel for the Appellant be taken on record.

7. In view of the above order, Civil

Application also stands disposed of.

A.M.KHANWILKAR, J.